

JUDGE TORRES

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

15 CV 02898

HAROLD BAYNES, as Administrator of the Estate of
WILLIAM CURLIN BAYNES, Deceased,

Plaintiff,

-against-

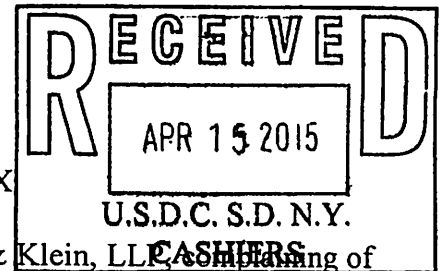
DAVID RUDERFER, Individually,

Defendant.

COMPLAINT

Docket No.

Jury Trial Demanded



Plaintiff HAROLD BAYNES, by his attorneys, Leventhal & Klein, LLP, complains of

the defendant, respectfully alleges as follows:

Preliminary Statement

1. Plaintiff brings this action for compensatory damages, punitive damages and attorneys' fees pursuant to 42 U.S.C. §§1983 and 1988 for violations of the civil rights of his son WILLIAM CURLIN BAYNES, deceased, as said rights are secured by said statutes and the Constitution of the United States.

2. This case arises from the unjustified fatal shooting of the decedent on October 4, 2012, by defendant New York State Trooper DAVID RUDERFER. WILLIAM CURLIN BAYNES was fifty-one years of age at the time of his untimely death.

JURISDICTION

3. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution.

4. Jurisdiction is found upon 28 U.S.C. §§1331 and 1343.

VENUE

5. Venue is properly laid in the Southern District of New York under 28 U.S.C. § 1391(b), in that this is the District in which the claim arose.

JURY DEMAND

6. Plaintiff respectfully demands a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38 (b).

PARTIES

7. Plaintiff HAROLD BAYNES is the father of the deceased, WILLIAM CURLIN BAYNES, and the administrator of his estate. Plaintiff HAROLD BAYNES was granted Limited Letters of Administration by the Surrogate of Orange County, and is authorized to bring this action on behalf of the decedent's estate.

8. At the time of his passing, decedent WILLIAM CURLIN BAYNES was a fifty-one year old resident of Newburgh, New York.

9. That at all times hereinafter mentioned, the individually named defendant, DAVID RUDERFER, was a duly sworn New York State Trooper and was acting under the supervision of the State of New York and according to his official duties.

10. That at all times hereinafter mentioned, defendant RUDERFER was acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State of New York.

11. Each and all of the acts of defendant RUDERFER alleged herein were done by said defendant while acting within the scope of his employment by defendant the State of New York.

FACTS

12. On October 4, 2012, at approximately 7:30 p.m., at the intersection of Route 300 and Route 32, in Newburgh, New York, the decedent, WILLIAM CURLIN BAYNES, was operating a motor vehicle, when defendant New York State Trooper DAVID RUDERFER initiated a traffic stop of decedent's motor vehicle.

13. Shortly after decedent stopped his vehicle, defendant RUDERFER unjustifiably entered decedent's vehicle, assaulted and battered the decedent, and unlawfully shot decedent in the back causing his death.

14. Decedent was inside of his motor vehicle and unarmed at the time of the shooting.

15. At the time that defendant RUDERFER discharged his weapon, defendant RUDERFER unjustifiably subjected the decedent to deadly force knowing that the decedent did nothing physically, verbally or otherwise, that justified the use of such force. When defendant RUDERFER discharged his weapon, he did so with deliberate indifference to the life and well-being the decedent, and knowing that with complete personal safety to himself and others, he could have and should have avoided the use of deadly force by retreating and/or by employing other less lethal and/or reasonable tactics.

16. At the time that defendant RUDERFER discharged his weapon, his use of deadly force was objectively unreasonable under the circumstances.

17. As a result of the defendant RUDERFER's actions, decedent WILLIAM CURLIN BAYNES suffered a fatal gunshot wound which entered through his back, resulting in his death.

18. As a result of the foregoing, decedent WILLIAM CURLIN BAYNES sustained, *inter alia*, physical injuries, mental anguish, conscious pain and suffering, loss of enjoyment of life, and deprivation of his liberty and constitutional rights.

AS AND FOR A FIRST CAUSE OF ACTION
(Excessive Force under 42 U.S.C. § 1983)

19. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs numbered “1” through “18” with the same force and effect as if fully set forth herein.

20. The level of force employed by defendant RUDERFER was excessive, objectively unreasonable and otherwise in violation of decedent WILLIAM CURLIN BAYNES’ constitutional rights.

21. As a result of the aforementioned conduct of defendant RUDERFER, decedent WILLIAM CURLIN BAYNES was subjected to excessive force and sustained serious physical injuries and emotional distress.

22. As a result of the foregoing, plaintiff HAROLD BAYNES, as Administrator of the Estate of WILLIAM CURLIN BAYNES, is entitled to compensatory damages in an amount to be fixed by a jury, and is further entitled to punitive damages against the individual defendant in an amount to be fixed by a jury, plus reasonable attorneys’ fees, costs and disbursements of this action.

WHEREFORE, plaintiff HAROLD BAYNES demands judgment and prays for the following relief, jointly and severally, against the defendant:

- (A) full and fair compensatory damages, including, without limitation, damages for loss of life, in an amount to be determined by a jury;
- (B) punitive damages against the individual defendant in an amount to be determined by a jury;
- (C) reasonable attorneys' fees and the costs and disbursements of this action; and
- (D) such other and further relief as appears just and proper.

Dated: Brooklyn, New York
April 14, 2015

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By:


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COMPLAINT

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